

Issue Paper Number **14-010**



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- ☐ Board Meeting
- ☐ Business Taxes Committee
- ☐ Customer Services and
Administrative Efficiency
Committee
- ☐ Legislative Committee
- ☒ Property Tax Committee
- ☐ Other

**Property Tax Rule 308.6,
Application for Equalization by Member, Alternate Member,
or Hearing Officer**

I. Issue

Should the State Board of Equalization (Board) authorize publication of amendments to Property Tax Rule¹ 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*?

II. Alternative 1 - Staff Recommendation

Staff recommends that the attached amendments to Rule 308.6 be authorized for publication (see Attachment A).

III. Other Alternative(s) Considered

None

¹ All references to Rules are Property Tax Rules which are regulations codified in division 1 of title 18, California Code of Regulations.

IV. Background

Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted Property Tax Rules 301 through 326 relative to the local equalization process.

Assembly Bill 824 (Stats. 2009, ch. 477) made revisions to the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals. Among other things, Assembly Bill 824 repealed and reenacted Revenue and Taxation Code section 1612.7 and amended section 1622.6 to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

In addition, Senate Bill 1494 (Stats. 2010, ch. 654) repealed Revenue and Taxation Code section 1636.5 which applied to applications filed by assessment appeal hearing officers. Section 1636.5 was repealed because similar provisions pertaining to hearing officers were added to section 1612.7 by Assembly Bill 824.

V. Discussion

Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by Assembly Bill 824 and Senate Bill 1494. Staff of the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to amend Rule 308.6 to accommodate the provisions of Assembly Bill 824, and delete the reference in the rule to section 1636.5 which was repealed by Senate Bill 1494. Interested parties were provided with proposed draft language for the rule on August 28, 2012 (Letter To Assessors 2012/036) and invited to participate in the rulemaking effort. Following a delay in the project, a second draft of the proposed revisions to the rule was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047).

Section 1622.6, as amended by Assembly Bill 824, gives clerks discretion to refer specified applications from their counties to an actively serving special alternate assessment appeals board in another county. The draft rule language provided in Letter To Assessors 2012/036 suggested that an application "may only be referred to a county if there is an agreement for the referral between the two counties." One comment received from the Tulare County Counsel's Office raised concerns that staff's suggested language might be interpreted as requiring a formal contract signed by each

county's board of supervisors. Tulare County suggested replacing staff's language with the following: "Applications may only be referred to a county if that county's assessment appeals board has consented to accept the referral." Staff sent the Tulare County proposed language to interested parties, and concerns were expressed by the California Association of Clerks and Election Officials in a letter dated March 6, 2013. Subsequently, the proposed language for the sentence in contention has been rewritten as: "Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral."

All interested parties who participated in the interested parties process to revise Rule 308.6 have agreed to the proposed revisions as presented in Attachment A.

VI. Alternative 1 - Staff Recommendation

Authorize for publication amendments to Property Tax Rule 308.6. The primary focus of the proposed amendments is to reflect changes to Revenue and Taxation Code sections 1612.7 and 1622.6 made by Assembly Bill 824.

A. Description of Alternative 1

Staff recommends that the attached amendments to Rule 308.6 be authorized for publication (see Attachment A). The amendments add the provisions of Revenue and Taxation Code sections 1612.7 and 1622.6 as reenacted by Assembly Bill 824, and delete the reference to section 1636.5 which was repealed by Senate Bill 1494.

B. Pros of Alternative 1

The proposed amendments to Rule 308.6 will clarify the conflict of interest provisions applicable to county property tax assessment appeals. Specifically, the provisions apply to appeals applications filed by:

- A current member of an assessment appeals board or any alternate member;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

Additionally, the amendments to Rule 308.6 will clarify the provisions for a clerk of the board to refer an assessment appeal application to alternate assessment appeals board in another county.

C. Cons of Alternative 1

None

D. Statutory or Regulatory Change for Alternative 1

Action by the Board to adopt amendments to Rule 308.6 will amend section 308.6 of title 18 of the California Code of Regulations.

E. Operational Impact of Alternative 1

None

F. Administrative Impact of Alternative 1

1. Cost Impact

Development of Property Tax Rules is within the scope of the statutory duties of the County-Assessed Properties Division and will be absorbed by existing staff.

2. Revenue Impact

None

G. Taxpayer/Customer Impact of Alternative 1

None

H. Critical Time Frames of Alternative 1

None

VII. Other Alternatives

None

Preparer/Reviewer Information

Prepared by: Property and Special Taxes Department, County-Assessed Properties Division

Current as of: December 15, 2014

RULE 308.6. APPLICATIONS FOR EQUALIZATION BY MEMBER, ALTERNATE MEMBER, OR HEARING OFFICER REQUIRED TO BE HEARD BY ALTERNATE ASSESSMENT APPEALS BOARDS.

Authority Cited: Section 15606, Government Code.

Reference: Sections 1612.7 and 1622.6-1636.5, Revenue and Taxation Code.

(a) Applications Required to Be Heard by Alternate Assessment Appeals Boards.

(1) The following ~~An~~ applications for equalization filed pursuant to sections 1603 or 1605 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals board or an appointed hearing officer shall be heard before an assessment appeals board panel consisting of three by a special alternate assessment appeals board members consisting of three persons appointed by order of the presiding judge of the superior court in the county in which the applications is are filed.:

(A) An application filed by a person included in paragraph (2) of this subdivision in a county in which the person serves or is employed; and

(B) An application in which a person included in paragraph (2) of this subdivision represents his or her spouse, registered domestic partner, parent, or child that is filed or pending in a county in which the person specified in paragraph (2) of this subdivision serves or is employed.

(2) This paragraph includes:

(A) A current member of an assessment appeals board or any alternate member;

(B) A current assessment hearing officer;

(C) A current employee of the office of the clerk of the board of equalization or assessment appeals board; and

(D) A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

(b) Referral to An Alternate Assessment Appeals Board in Another County. The clerk of the board has discretion to refer an application for hearing to a special alternate assessment appeals board, convened to hear the application, consisting of three members who are qualified and in good standing in another California county, in lieu of having the superior court appoint a special alternate assessment appeals board to hear the application. Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral.

(b c) Subject Matter.

(1) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

(2) If the clerk of the board refers an application or applications to an actively serving assessment appeals board in another county pursuant to subdivision (b), the board may hear only the application or

applications set forth in the transmittal document prepared by the clerk of the board of the county in which the application or applications were filed.

(~~e~~ **d**) **Qualifications for Appointment.** Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

(~~d~~ **e**) **Restrictions on Appointment and Grounds for Removal.** Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment and removal of a special assessment appeals board member.

History: Adopted June 13, 1974, effective June 14, 1974.
Amended December 17, 1975, effective January 25, 1976.
Amended October 6, 1999, effective April 22, 2000.
Amended February 13, 2001, effective February 13, 2001.